

Filed 11/14/14
CV 2014 11 2998

IN THE COMMON PLEAS COURT OF BUTLER COUNTY, OHIO
CIVIL DIVISION

Filed Butler Co.
Court of Common Pleas

DANIEL J. CLICK
1240 Stahlhever Road
Hamilton, OH 45013

DEC - 1 2014

Mary L. Swain
Clerk of Courts

CASE NO.:

Judge:

Plaintiff,

vs.

COMPLAINT FOR PERSONAL
INJURY; JURY DEMAND
ENDORSED HEREON

SMITH & WESSON CORP.
c/o The Corporation Trust Company
Registered Agent
1209 Orange Street
Wilmington, Delaware 19801

Defendant.

FIRST CLAIM FOR RELIEF

1. At all relevant time, Defendant, Smith & Wesson Corporation (hereinafter "Smith & Wesson"), manufactured handguns and authorized the distribution for sale and firearms within the State of Ohio.

2. On or about November 17, 2012, Plaintiff, Daniel J. Click, took his Smith & Wesson Walther's PPK/S (.380) pistol from his holster and the gun discharged, without Plaintiff touching or pulling the trigger, and a bullet entered his left palm, and exited the back, despite having the safety secure sustaining injury as a direct and proximate result of a dangerous and hazardous condition created and/or perpetuated by Defendant, Smith & Wesson or known by Defendant to exist, to wit: defective safety lock mechanism.

3. Defendant, Smith & Wesson, has known for years and had many complaints regarding the subject pistol, made from 2002 through 2009, and did not correct the problem or otherwise warn the public of the defective safety lock mechanism. The aforementioned conduct by the Defendant amounts to a flagrant disregard for the safety of the public as defined by Ohio

EXHIBIT

"A"

Revised Code 2307.80.

4. Defendant, Smith & Wesson, negligently failed to actively warn the public so as to prevent the exposure of firearm's owners or others to the dangerous and hazardous condition created by the failure of the safety lock mechanism, causing substantial injury to Plaintiff.

5. The subject Walther PPK/S (.380) pistol was defective and unreasonably dangerous when placed into the stream of commerce by Defendant, Smith & Wesson, by reason of the following product defects:

1. Manufacturing Defect

The subject Walther PPK/S (.380) pistol was defective in manufacture and construction as defined in Ohio Revised Code 2307.74;

2. Design Defect

The Walther PPK/S (.380) pistol was defective in design or formulation as defined in Ohio Revised Code 2307.75 in that;

3. Consumer Expectation Standard

The product was defective because it did not conform to the representations made by Defendant, Smith & Wesson, as defined in Ohio Revised Code 2307.77;

4. Risk Benefit Standard

The foreseeable risks associated with the design of the Walther PPK/S (.380) pistol, as defined in Ohio Revised Code 2307.75, exceeded the benefits associated with that design or formulation; and

5. Warning Defect

The subject Walther PPK/S (.380) pistol was defective due to inadequate warning or instruction, as they are defined in Ohio Revised Code 2307.76, in that Defendant, Smith & Wesson failed to provide adequate warning or instruction that a manufacturer or seller exercising reasonable care would have provided concerning the risk of injury and likely seriousness of harm for use of the product.

6. As a proximate result of the defective nature of the subject Walther PPK/S (.380) pistol designed, manufactured and otherwise introduced into the stream of commerce by Defendant, Smith & Wesson, Plaintiff, Daniel J. Click, suffered serious and permanent injuries and damages as follows:

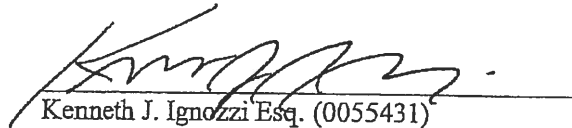
- a. Severe and permanent injuries;
- b. Great pain and suffering both physical and emotional, and loss of ability to perform usual functions with said pain, suffering and loss of ability to perform usual functions reasonably certain to continue in the future;
- c. Reasonable and necessary medical expenses in an amount exceeding \$46,223.10, as well as further medical expenses to be incurred in the future.

7. The conduct of Defendant, Smith & Wesson, in designing, manufacturing and supplying the subject Walther PPK/S (.380) pistol, used by Plaintiff, Daniel J. Click, on November 17, 2012, constitutes misconduct by the manufacturer or supplier that manifested a flagrant disregard for the safety of the persons who might be harmed by the product in question, such that an award of punitive damages against Defendant, Smith & Wesson, pursuant to Ohio Revised Code 2307.80 is proper in this case.

WHEREFORE, Plaintiff, Daniel J. Click, pursuant to Ohio Revised Code Sections 2309.01 and 2307.80, demands judgment against Defendant, Smith & Wesson, for compensatory and punitive damages in an amount in excess of \$25,000.00 and for such attorney's fees as the court deems reasonable.

Respectfully Submitted,

DYER, GAROFALO, MANN & SCHULTZ



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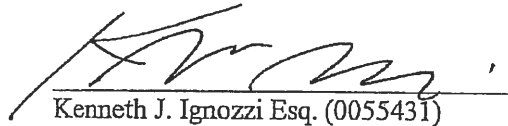
kignozzi@dgmslaw.com

JURY DEMAND

Now comes Plaintiff, by and through counsel, and hereby demands a trial by jury on all issues of this matter.

Respectfully Submitted,

DYER, GAROFALO, MANN & SCHULTZ

A handwritten signature in black ink, appearing to read 'K. Ignozzi', is written over a horizontal line.

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